

SCHEDULES

SCHEDULE 4

DEVELOPMENT PLANS

PART III

TRANSITIONAL PROVISIONS

Local plans

- 43 Where a local planning authority have made available under section 39(5) or 40(2) of the old law copies of proposals for the making, alteration, repeal or replacement of a local plan but the proposals are not adopted or approved before commencement, the proposals may after commencement be adopted or as the case may be, approved as if the old law were still in force.
- 44 (1) A local plan which—
- (a) immediately before commencement is in operation in the area of a local planning authority, or
 - (b) is brought into operation after commencement by virtue of paragraph 43 above,
- (in this Schedule referred to as “a saved local plan”) shall, subject to the following provisions of this paragraph, continue in operation.
- (2) Where a saved local plan—
- (a) complies with section 36 of the new law and was prepared by the authority who are entitled to prepare the plan required by that section, or
 - (b) contains only those policies required or permitted to be included in a minerals local plan or a waste local plan in accordance with sections 36 to 38 of the new law and was made by the authority who are entitled to prepare a minerals local plan or, as the case may be, a waste local plan,
- it shall be treated as if it were a local plan, a minerals local plan or, as the case may be, a waste local plan which had been adopted or, as the case may be, approved under the new law (and accordingly may be altered or replaced under the new law).
- (3) In sub-paragraphs (4) to (8) below the references to saved local plans do not include a reference to saved local plans treated, by virtue of sub-paragraph (2) above, as if adopted or approved under the new law.
- (4) Any saved local plan shall have effect subject to a local plan, minerals local plan or waste local plan which is adopted or approved under the new law and shall not be treated as mentioned in sub-paragraph (2) above (and accordingly may not be altered or replaced under the new law).

Status: This is the original version (as it was originally enacted).

- (5) Where the last of the plans, or the plan, required to be prepared for an area under sections 36 to 38 of the new law is prepared for that area—
- (a) any saved local plan, and
 - (b) any old development plan,
- shall cease to have effect in relation to that area.
- (6) If the Secretary of State so directs, any specified provisions of a saved local plan shall continue in operation—
- (a) for such period as may be specified or determined in accordance with the direction;
 - (b) in relation to the area or any specified part of the area to which the saved local plan relates.
- (7) The Secretary of State may revoke any direction given under sub-paragraph (6) above.
- (8) Before giving or revoking any such direction the Secretary of State shall consult any local planning authority for the area in which the plan is in operation.
- (9) A saved local plan shall, while it continues in operation, be treated for the purposes of the new law, any other enactment relating to town and country planning, the Land Compensation Act 1961 and the Highways Act 1980 as being comprised in the development plan in respect of the area in question.
- (10) In this paragraph—
- “old development plan” has the same meaning as in Part III of Schedule 2 to the principal Act; and
 - “specified” means specified in the direction.
- 45 (1) Sub-paragraph (2) below applies where after commencement—
- (a) there is in operation in the area of a local planning authority a saved local plan which does not fall within paragraph 44(2)(a) above;
 - (b) proposals are made in pursuance of the new law for the making, alteration or replacement of a local plan for that area;
 - (c) the local planning authority who are making those proposals have published in the prescribed manner a statement in the prescribed form identifying a policy included in the plan as an existing policy; and
 - (d) a local inquiry or other hearing is held for the purpose of considering any objection to the proposals.
- (2) Where this sub-paragraph applies, the person holding the inquiry or other hearing need not allow an objector to appear if he is satisfied that—
- (a) the objection is to a policy identified in the statement published under sub-paragraph (1)(c) above;
 - (b) the policy so identified is an existing policy; and
 - (c) there has been no significant change in circumstances affecting the existing policy since it first formed part of the saved local plan.
- (3) In this paragraph “existing policy” means a policy or proposal the substance of which (however expressed) was contained in the saved local plan falling within sub-paragraph (1)(a) above.